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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/863,113	05/27/97	GOINEAU	1974

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34M1/1224

EXAMINER
WORRELL JR, L

ART UNIT	PAPER NUMBER
3408	

DATE MAILED: 12/24/97

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

08/863,113

Applicant(s)

Goineau et al.

Examiner

Larry Worrell

Group Art Unit

3408

☐ Responsive to communication(s) filed on \_\_\_\_\_☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.☒ Claim(s) 1-8 is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers**☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☒ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☒ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_☐ Interview Summary, PTO-413☒ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: From claim 2, "overfed about 1% to said draw zone".
2. The disclosure is objected to because of the following informalities: Proper headings are needed as per MPEP 608.01(a). Appropriate correction is required.
3. Claims 2-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 2, it is unclear how a yarn can be overfed about 1% to a draw zone with drawing in the range of 1.8 to 2.3 continuing to take place in that drawzone. Overfeeding would result in relaxing of the yarn.

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***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5 insofar as definite are rejected under 35 U.S.C. 102(b) as being anticipated by Goineau(5172459).

Goineau(5172459) teaches the invention as claimed including providing a bobbin of polyester POY multi-filament synthetic yarn(20, 26, 24), supplying said yarn to a heater(32), drawing said yarn in a draw zone with a draw ratio in the range of 1.8-2.3(column 2, lines 24-27) as it passes over the heater to fully orient the yarn and taking up the fully oriented yarn(42). Re claim 2, the recitation "overfed by about 1%" has no clear and definite meaning in the context of supplying to a draw zone and therefore it is considered non-controlling as to the metes and bounds of the claim. Re claim 5, note the draw relaxing zone between rollers 34 and 41.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 4 and 6-8 insofar as definite are rejected under 35 U.S.C. 103(a) as being unpatentable over Goineau(5172459) in view of Gorrafa.

As indicated in the rejection to claim 2 above, Goineau(5172459) teaches the invention substantially as claimed including providing a 34 filament, 150 denier POY yarn. However Goineau(5172459) discloses a heater draw temperature of 140°C instead of about 210°C as claimed. Gorrafa teaches a drawing process for polyester yarns in which the temperature is 210°C as shown in Table 1 of Gorrafa. It would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the heating of the yarn of Goineau(5172459) to about 210°C in order to bring about the optimal fully drawn yarn characteristics as shown by Gorrafa. Additionally, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Re claim 4 and the pre-tensioning, note in the draw block of Goineau(5172459) the initial drawing provides a pre-tension before the second draw section. See column 2, lines 20-27. Re claim 7 and the yarn size of 255 denier, it would have been obvious at the time the invention was made to one of ordinary skill in the art to which the invention pertains to provide the yarn size as 255 denier since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Concerning the

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specific draw ration of 2.093, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the 1.9 draw ratio of Goineau(5172459) as 2.093, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Clearly draw ratio is a result effective variable as shown by example throughout the disclosure of Gorrafa.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. **Any response to this communication should be directed to Art Unit 3408.**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danny Worrell whose telephone number is (703) 308-0889. Messages placed on voice mail will be returned by the end of my next business day.

If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Clifford Crowder, can be reached at (703) 308-0949.

The fax phone number for this Group is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

LDW  
December 15, 1997

  
C. D. CROWDER  
SUPERVISORY PATENT EXAMINER  
GROUP 3400